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C O N F I D E N T I A L SECTION 01 OF 02 TAIPEI 001627

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SUBJECT: PAN-BLUE CROSS-STRAIT BILL: MOSTLY POLITICS

Classified By: Director Stephen M. Young, Reason(s): 1.4 (B/D).

11. (C) Summary: Pan-Blue legislators are pushing for a May 12 vote on a bill to amend the law which governs air and sea travel between Taiwan and the PRC. The bill proposes to eliminate restrictions on such travel, to set the stage for future direct cross-Straits transportation links. DPP and TSU legislators argue that direct links should be established gradually, through bilateral negotiations with the PRC, and that the Pan-Blue bill threatens Taiwan's security by forcing hasty changes. The two sides continue to negotiate the terms of the bill, which may or may not come to a vote on May 12. Even if the bill passes, nothing will happen soon -- the Ministry of Transportation and Communications (MOTC) would have to draft and the Executive Yuan would have to approve governing regulations. This cannot happen without cooperation from the DPP administration, which opposes the bill. At the same time, there are signs all this activity is galvanizing the Chen government to quietly pursue some new openings with China on direct links. End Summary.

12. (U) The KMT and PFP in September 2005 jointly introduced a bill to amend and delete portions of the "Act Governing Relations Between Peoples of the Taiwan Area and the Mainland Area," ("the Act"). The Act was promulgated by presidential order in 1992, and has been amended nine times. Its stated purpose is to "ensur(e) the security and public welfare of the Taiwan area," and to regulate dealings between the two sides of the Strait, during the period "before national unification."

13. (U) Pan-Blue legislators say their bill, which seeks to amend three articles and delete one article, will remove "legal obstacles" to "allow" the creation of direct cross-Straits links. Pan-Green legislators complain the changes are intended to "force" the government to open direct links with China too quickly, and therefore constitute a threat to Taiwan's security. On January 5, 2006, using the "party caucus rule" the DPP and TSU caucuses in the Legislative Yuan (LY) insisted the bill undergo a four-month inter-party negotiation process. (Note: This tactic is often used by party caucuses to "freeze" unfavorable or controversial legislative proposals. End note.) The bill came out of the "freezer" on May 5, and is now eligible for a vote. The Pan-Blues have announced their intention to force a vote on May 12.

14. (U) Articles 28 and 29 of the Act govern the traffic of Taiwan and PRC aircraft and ships between Taiwan and the Mainland. In their current form, these articles forbid Taiwan vessels and aircraft from traveling to the Mainland and bar Mainland vessels and aircraft from entering Taiwan waters or airspace unless specifically authorized by "the applicable authorities," in accord with rules generated by the MOTC and approved by the Executive Yuan (EY). Last amended in March 2004, Article 28 required the MOTC to submit its proposed rules to the EY within eighteen months of that date, but allowed for extensions "if necessary." Rules have not yet been drafted or approved, more than two years later. The stated excuse is that implementation of such rules remains impossible as long as China refuses dialogue with Taiwan's government.

15. (U) The Pan-Blue bill's version of Article 28 reads: "Any vessels, aircraft or other means of transportation of the Republic of China may sail or fly to the Mainland Area." It would replace the 18-month deadline for the MOTC to submit its rules to the EY with a three-month cutoff. And there is no provision for an extension of time. The proposed Article 29 replaces the presumption against Mainland traffic with more permissive language: "With permissions given by the competent authorities, Mainland vessels, civil aircraft or other means of transportation may enter into the restricted or prohibited waters of the Taiwan Area or the controlled airspace of the Taipei Flight Information Region," as defined by the Ministry of National Defense.

16. (U) Article 30 of the Act bars foreign aircraft and ships from traveling directly between Taiwan and the Mainland. Charter flights are subject to this limitation. The ban can be lifted by the MOTC after approval by the Executive Yuan.

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The Pan-Blue bill would delete Article 30 in its entirety. The proposed addition to Article 95 would impose a three month deadline for the "competent authorities" to adopt and implement measures governing direct cross-Straits traffic. Without a deadline, say KMT and PFP caucus leaders, the Chen administration will continue dithering on direct cross-Straits transportation issues.

17. (U) The four-month "negotiation period" on the Pan-Blue bill expired last week. Since then, Pan-Green lawmakers have called upon their Pan-Blue counterparts to try to reach a consensus on the bill before putting it to a vote. DPP lawmakers contend the proposed changes will rush the establishment of cross-Straits links, putting Taiwan's national security at risk. They argue that cross-Straits air and shipping links should be set up in a piecemeal fashion, based on agreements reached through negotiation between the governments of Taiwan and China. TSU legislators have expressed concern that direct transportation links will accelerate the "hollowing out" of Taiwan's economy, by making it easier for businesses to shift operations to the Mainland.

18. (U) KMT and PFP lawmakers insist the changes are necessary to pave the way for direct transportation links, but party leaders, including KMT LY President Wang Jin-pyng, have expressed a willingness to meet with DPP and TSU legislators to consult on the bill. Straddling the line between the two sides, Wang has stated publicly that "it is better to handle the issue (of cross-Straits transportation links) more prudently, although it is lawful for the Pan-Blue alliance to call for a vote." Wang has also stated that even if the bill were to pass on May 12, many elements of the amendments still needed supplementary measures from the Cabinet and negotiations with China before they could be implemented.

Comment: Bill Is Mostly Political Gesture  
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19. (C) Notwithstanding KMT promises to force a vote on May 12, it is possible that the Blue and Green caucuses will

decide to submit the bill to further deliberations. Little is likely to happen soon even if the bill does pass. KMT Deputy Director of Mainland Affairs Chang Jung-kung told AIT that without cooperation from the Executive Branch, the amendments would amount to little more than a political gesture. Meanwhile, there are signs the DPP ruling party is trying to get ahead of the curve a bit. Earlier this week MAC Chairman Joseph Wu updated Director Young on quiet negotiations between the PRC and Taiwan on gradual relaxation of direct air links. Wu predicted there would be a public update on or around May 20, and that additional special direct flights might be added on in as early as six months.

YOUNG